

### **REMARKS**

Claims 1-6, 8, 10, 12-21, 24-27, 30-41 and 43-47 are now pending in the application. Claims 11 and 28 are canceled by this amendment. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **APPLICANT INITIATED INTERVIEW SUMMARY**

Applicants thank the Examiner for the interview granted on April 24, 2009. During the interview the Applicants' representative reiterated Applicants' belief that "Autogenous Bone Coring: a Scientific Approach" by Arthrotek, Inc. and Schmidt, 2004 is not prior art to the subject application. The subject application was filed October 16, 2003, which is before the 2004 date of the "Autogenous Bone Coring: a Scientific Approach" by Arthrotek, Inc. and Schmidt, 2004. Applicants' representative believes that an agreement was reached that this was the case and that the rejections based on "Autogenous Bone Coring: a Scientific Approach" by Arthrotek, Inc. and Schmidt, 2004 would be withdrawn and prosecution reopened; if all of the claims were not found to be in condition for allowance a further non-final Office Action would be mailed.

Applicants thank the Examiner for the further interview granted on April 28, 2009. During this interview, Claims 1, 41, 45, and 46 were discussed with the Examiner in light of Scarborough et al. Although no agreement was reached as to the allowability of the claims, Applicants' representative does believe an agreement was reached that amendments regarding functioning of the elements of the pending claims would define over Scarborough et al. Applicants' representative further believes that an agreement

was reached that such amendments would be considered when made in the subject amendment, and if all of the claims were not found to be in condition for allowance a further non-final Office Action would be mailed.

#### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1, 3-6, 8, 10, 12-21, 24-27, 30-41 and 43-47 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Scarborough et al. (U.S. Pat. No. 5,632,747) (hereinafter, "Scarborough"). This rejection is respectfully traversed.

Applicants have amended Claim 1 to include the subject matter of Claim 11 and Claim 27 to include the subject matter of Claim 28. As discussed below, Claims 1 and 27, and all of the claims that depend therefrom, should now be in condition for allowance.

Claim 15 has been amended to recite,

a first graspable assembly and a separate second graspable assembly to selectively engage said collet, each defining a graspable assembly bore that is generally aligned with said harvester bore when said first or second graspable assembly separately and selectively engages said collet assembly; wherein said first graspable assembly is a drill motor and said second graspable assembly is a handle wherein either said drill motor or said handle individually selectively engages said collet assembly

while Scarborough discloses a coupling 114 to couple to a surgical drill 20 via a chuck 28. The surgical drill has a bore 22a to allow a support shaft 322 to extend through the drill and the blade 40. After forming the bone dowel, the support shaft can cooperate with a spring 330 to eject the bone dowel from the cutting blade 40. Scarborough, therefore, fails to disclose and can not anticipate a first and second graspable assembly

as claimed. Accordingly Claim 15 and all of the claims that depend therefrom are in condition for allowance.

Claim 35 is amended to recite, "a connecting member including a spring biasing member and a bearing member positioned within a sleeve, the connecting member operable to selectively interconnect said graspable member and said harvest member; wherein the bearing member engages a bearing aperture of the harvest member in a quick release manner to selectively hold the harvest member relative to the graspable member; wherein the spring biasing member compresses between the harvest member and a wall within the sleeve when bearing member is engaged to the harvest member." As discussed with the Examiner, Applicants submit that Scarborough does not disclose a connecting member including a bearing member and a spring biasing member, as claimed. Applicants have amended Claim 35, as supported by the application as filed at least at paragraphs 35 and 36 and Fig. 3, regarding the connecting member assembly. The spring 330 of Scarborough compresses against a compression fitting 332 to assist in removing the bone dowel from the blade 40 (See, Scarborough col. 6, ln. 60 to col. 7, ln. 33). Scarborough does not disclose a bearing member to engage a bearing aperture to hold a harvest member or a spring biasing member that compresses against a wall of a sleeve when the bearing member engages the harvest member. Accordingly, Claim 35 and all of the claims that depend therefrom are in condition for allowance.

Claim 41 has been amended to recite, "a harvesting member operable to be driven into a selected portion of bone, said harvesting member having an bearing aperture; . . . a collet assembly including a biasing spring member, a collar, and a

bearing member; wherein the biasing spring member is compressed by said collar when said harvesting member is moved against said collar of said collet assembly and said bearing member engages said bearing aperture to interconnect said harvesting member and said graspable portion.” As discussed with the Examiner, Applicants submit that Scarborough does not disclose a collet assembly as claimed. Applicants have amended Claim 41, as supported by the application as filed at least at paragraphs 35 and 36 and Fig. 3, regarding the collet assembly. The spring 330 of Scarborough compresses against a compression fitting 332 is to assist in removing the bone dowel from the blade 40 (See, Scarborough col. 6, ln. 60 to col. 7, ln. 33). The spring 330 of Scarborough is not part of a collet assembly to interconnect a graspable portion and a harvesting member. Accordingly, Claim 41 and all of the claims that depend therefrom are in condition for allowance.

In light of the foregoing amendments and arguments, Applicants respectfully request that the present application be passed to issuance at the Examiner's earliest convenience.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 11 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Scarborough et al. (U.S. Pat. No. 5,632,747) in view of “Autogenous Bone Coring: a Scientific Approach” by Arthrotek, Inc. and Schmidt, 2004 (hereinafter, “Schmidt”). This rejection is respectfully traversed.

As summarized above, Applicants' representative submits that Schmidt is not prior art to the subject application, as previously argued in Applicants' amendment

dated August 4, 2008. As previously submitted by Applicants, the copyright date of 2004 of Schmidt is actually **after** the filing date of October 16, 2003 of the subject application and, therefore, not prior art. Accordingly, any rejection based on Schmidt is improper and Applicants respectfully request that this rejection be withdrawn.

Applicants have amended Claim 1 to include the subject matter of Claim 11 and Claim 27 to include the subject matter of Claim 28. Accordingly, Claims 1 and 27 should now be in condition for allowance.

## CONCLUSION


As discussed above, Applicants have amended each of the currently pending independent claims. Applicants respectfully submit that the independent claims have been amended to expedite prosecution of the current application and are in condition for allowance in light of the art cited in the rejections. Accordingly, Applicants submit that all of the stated grounds of rejections have been traversed, accommodated, or rendered moot. Applicants respectfully request that the Examiner withdraw all of the outstanding rejections and pass the present application to allowance at the Examiner's earliest convenience. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

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